Docket No.: 109927-135179

AF/HFW

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By: _Yvette L. Chriscaden_   Date: <u>March 31, 2006</u>
Yvette L. Chriscaden

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Before the Board of Patent Appeals and Interferences

App. No.	:	10/705,456 Confirmation No.: 6697
Inventor	:	Roundtree et al.
Filed	:	November 10, 2003
Title	:	PROGRAMMING INTERFACE LAYER OF A SERVICE PROVIDER FOR DATA SERVICE DELIVERY
Art Unit	:	2683
Examiner	:	D'Agosta, Stephen M.
Customer No.	:	25,943

MAIL STOP: APPEAL BRIEF-PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANT'S BRIEF IN SUPPORT OF APPELLANT'S APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

Dear Sir:

This appeal furthers the Notice of Appeal filed on February 27, 2006. The appeal arises from a final decision by the Examiner in the final Office Action, dated November 28, 2005. The final decision was in response to arguments filed on November 7, 2005, in response to an earlier office action, mailed September 16, 2005.

Appellants submit this *Brief on Appeal* in triplicate, including payment in the amount of $500.00 to cover the fee for filing the *Brief on Appeal*. Appellants respectfully request

consideration of this appeal by the Board of Patent Appeals and Interferences for allowance of the present patent application.

Real Party in Interest:

This application is assigned to Action Engine Corporation having a principal place of business at 2331 130th Ave NE, Bellevue, Washington 98005 by virtue of an assignment recorded with the United States Patent and Trademark Office on March 26, 2004, at Reel 015150 Frame 0057.

Related Appeals and Interferences:

To the best of Appellants' knowledge, there are no related appeals or interference proceedings currently pending, which would directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

Status of Claims:

Appellants appeal the rejection of claims 3-17. Claims 3-21 were pending and claims 3-17 were rejected in the Final Office Action dated November 28, 2005. Claims 18-21 were objected to as depending upon rejected base claims. Claims 3-21 are reproduced, as pending, in Appendix A.

Status of Amendments:

Appellants have offered no amendments subsequent to the Examiner's final rejection.

Summary of the Claimed Subject Matter:

Independent claim 3 is directed towards *a computer system apparatus* that comprises "a processor; and memory coupled to the processor having a plurality of programming instructions implementing a programming interface layer for a service provider to facilitate delivery of data services to client devices by any of a plurality of vendors via the service provider, the programming interface layer including a plurality of generic executable service functions callable by any of the plurality of vendors to facilitate

delivery of a plurality of heterogeneous data services, a parameter processing module for processing function-specific parameters, including device information for a wireless mobile device, for one of said plurality of generic executable service functions wherein said function-specific parameters are associated with one of said generic executable service functions, and a response generating module for generating a function-specific response from one of said generic executable service functions, wherein said function-specific response is associated with one of said generic executable service functions and includes said device information." Element 150 of Figure 1 illustrates an example service providing server performing the operations recited in claim 3. Element 150 of Figure 1 is described in detail on pages 2-3, and 11, in accordance with some embodiments. Figure 4 illustrates various devious in a framework system, including the example service providing server 150, the example service providing server 150 performing the operations recited in claim 3. The operations illustrated by Figure 4 are described in greater detail on page 5, in accordance with some embodiments. Figure 10 is another illustration of various devious in a framework system, including the example service providing server 150, the example service providing server 150 performing the operations recited in claim 3. The operations illustrated by Figure 10 are described in greater detail on pages 6-7, in accordance with some embodiments. Figure 14 is yet another illustration of various devious in a framework system, including the example service providing server 150, the example service providing server 150 performing the operations recited in claim 3. The operations illustrated by Figure 14 are described in greater detail on page 12, in accordance with some embodiments.

Independent claim 7 is directed towards *a programming interface layer for a service provider,* which recites, in substance, similar limitations to claim 3. Therefore, support can be found in the same figures and passages in the specification enumerated in the immediately preceding paragraph.

Independent claim 11 is directed towards *an article of manufacture,* which, in substance, is claim 3 in article form. Therefore, support can be found in the same

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figures and passages in the specification enumerated in the preceding paragraph summarizing claim 3.

Independent claim 15 is directed towards a *method of operation*, which, in substance, is claim 3 in apparatus form. Therefore, support can be found in the same figures and passages in the specification enumerated in the immediately preceding paragraph summarizing claim 3.

Grounds For Rejection To Be Argued On Appeal:

I.   Claims 3-4, 6-8, 10-12, and 14-17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application No. 09/792,810 to *Shapiro et al.* (hereinafter "Shapiro") in view of U.S. Patent Application No. 10/164,187 to *Fischer et al.* (hereinafter "Fischer") and U.S. Patent No. 6,216,173 to *Jones et al.* (hereinafter "Jones").

II.   Claims 5, 9, and 13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Shapiro, Fischer, and Jones, and further in view of U.S. Patent Application No. 10/066,841 to *Wookey et al.* (hereinafter "Wookey") and U.S. Patent Application No. 09/733,540 to *Wray* (hereinafter "Wray").

Arguments:

I.   Rejections of claims 3-4, 6-8, 10-12, and 14-17 under 35 U.S.C. §103(a) were improper because Shapiro, Fischer, and Jones, alone or in combination, fail to teach or suggest the claimed invention when the invention as claimed in claims 3-4, 6-8, 10-12, and 14-17 is viewed as a whole.

To establish obviousness under 35 U.S.C. § 103, the Examiner must view the invention as a whole. Further, the Examiner is to perform the obviousness analysis in accordance with the standard set forth by the Supreme Court in *Graham v. John Deere*

Co. That standard requires that the Examiner (1) determine the scope and content of the prior art; (2) ascertain the differences between the prior art and the claims in issue; (3) resolve the level of ordinary skill in the art; and (4) evaluate evidence of secondary considerations. 383 U.S. 1, 17-18 (1966); *see also* MPEP 2141. Secondary considerations include whether the invention met with commercial success, whether the invention answered a long felt need, and whether others attempting the invention have failed. *Graham*, 383 U.S. at 17-18. Further, in applying the *Graham* framework, the Examiner must consider the invention as a whole, without the benefit of hindsight. MPEP 2141.

Claim 3 recites a computer system comprising:

"a processor; and

memory coupled to the processor having a plurality of programming instructions implementing a programming interface layer for a service provider to facilitate delivery of data services to client devices by any of a plurality of vendors via the service provider, the programming interface layer including

a plurality of generic executable service functions callable by any of the plurality of vendors to facilitate delivery of a plurality of heterogeneous data services;

a parameter processing module for processing function-specific parameters, including device information for a wireless mobile device, for one of said plurality of generic executable service functions wherein said function-specific parameters are associated with one of said generic executable service functions; and

a response generating module for generating a function-specific response from one of said generic executable service functions, wherein said function-specific response is associated with one of said generic executable service functions and includes said device information."

None of the cited references, alone or in combination, teaches or suggests "a parameter processing module for processing function-specific parameters, including device information for a wireless mobile device, for one of said plurality of generic

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executable service functions wherein said function-specific parameters are associated with one of said generic executable service functions," and "a response generating module for generating a function-specific response from one of said generic executable service functions, wherein said function-specific response is associated with one of said generic executable service functions and includes said device information," as is claimed in claim 3 of the present invention. This architecture provides a number of advantages, among them, isolation of an authentication function ("the parameter processing module for processing function-specific parameters, including device information for a wireless mobile device"), and consolidation of device dependent programming (response generating module).

In contrast, Shapiro teaches a "system and method for automatically creating information useable to access functionality of a backend computer system coupled to an application server." Neither the backend computer system, nor the application server, nor the optional web server facilitating communication between clients and application servers has a programming interface layer which includes a parameter processing module and a response generating module. Shapiro discloses that an option web server may communicate with an application server via ISAPI or NSAPI (Shapiro, paragraph 0064). Both ISAPI and NSAPI, however, are generic web server APIs that do not include a parameter processing function/module or a response generating function/module. Thus, even assuming that the web server of Shapiro reads on the vendor of claim 3 and the application server reads on the application service providing server (points in which Applicants do not concur), Shapiro fails to teach or suggest a programming interface layer having a parameter processing module and a response generating module.

Fischer, both alone and in combination with Shapiro, fails to cure the defects of Shapiro. Fischer teaches an "application programming interface [(API)] layer for devices, such as handheld computers, personal digital assistants (PDAs), Internet enabled phones, laptops, and desktop computers or the like, that provides device

independence so applications may run on any of such devices without specific programming for device specific dependencies." While the API layer of Fischer arguably reads on a programming interface layer, the API of Fischer fails to suggest either a parameter processing module or a response generating module of the programming interface layer.

Even taking Shapiro, Fischer, and Jones as a whole, the cited prior art fails to make obvious the present invention as claimed in claim 3 when the invention as claimed in claim 3 is viewed as a whole. Jones offers a "method and apparatus for incorporating content processing and content routing intelligence into networks." While Jones teaches function calls passed between content processing and routing services, it makes no reference to a parameter processing module nor a response generating module of a programming interface layer. Thus, viewing the present invention as claimed in claim 3 as a whole, the cited references fail to render the claim unpatentable.

Accordingly, claim 3 is patentable over Shapiro, Fischer, and Jones, alone, in combination, or in sub-combination under 35 U.S.C. §103(a).

Claims 7, 11, and 15 recite similar limitations to the present invention as claimed in claim 3. Accordingly, for at least the same reasons, claims 7, 11, and 15 are patentable over Shapiro, Fischer, and Jones, alone, in combination, or in sub-combination under 35 U.S.C. §103(a).

Claims 4, 6, 8, 10, 12, 14, and 16-17 depend from claims 3, 7, 11, and 15, respectively, incorporating their limitations correspondingly. Accordingly, for at least the same reasons, claims 2, 4, 6, 8, 10, 12, 14, and 16-17 are patentable over the cited art under 35 U.S.C. §103(a).

II.   <u>Rejections of claims 5, 9, and 13 under 35 U.S.C. §103(a) were improper because Shapiro, Fischer, Jones, Wookey, and Wray, alone or in combination, fail to teach or suggest the claimed invention when the invention as claimed in claims 5, 9, and 13 is viewed as a whole.</u>

As stated above, Shapiro, Fischer, and Jones, individually or combined, fail to teach or suggest required, recited operations of the present invention, as claimed in claims 3, 7, and 11. Thus, even when combined with Wookey and/or Wray, the cited art fails to suggest novel features that are noted when the invention of claims 3, 7, and 11 is viewed as a whole. Consequently, claims 5, 9, and 13 are patentable over the combination of Shapiro, Fischer, Jones, Wookey, and Wray under 35 U.S.C. §103(a).

Conclusion

Appellants respectfully submit that all the appealed claims in this application are patentable and request that the Board of Patent Appeals and Interferences overrule the Examiner and direct allowance of the rejected claims.

This brief is submitted in triplicate, along with Check Number 13624 for $500.00 to cover the filing of appeal brief. We do not believe any additional fees, in particular extension of time fees, are needed. However, should that be necessary, please charge our deposit account 500393. In addition, please charge any shortages and credit any overages to Deposit Account No. 500393.

Respectfully submitted,

Date: March 31, 2006
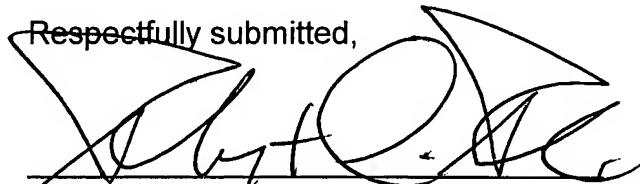
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Appendix A – Appealed Claims

1.   (Cancelled)

2.   (Cancelled)

3.   (Previously Presented) A computer system comprising:

a processor; and

memory coupled to the processor having a plurality of programming instructions implementing a programming interface layer for a service provider to facilitate delivery of data services to client devices by any of a plurality of vendors via the service provider, the programming interface layer including

a plurality of generic executable service functions callable by any of the plurality of vendors to facilitate delivery of a plurality of heterogeneous data services;

a parameter processing module for processing function-specific parameters, including device information for a wireless mobile device, for one of said plurality of generic executable service functions wherein said function-specific parameters are associated with one of said generic executable service functions; and

a response generating module for generating a function-specific response from one of said generic executable service functions, wherein said function-specific response is associated with one of said generic executable service functions and includes said device information.

4.   (Original) The computer system of Claim 3, wherein the programming interface layer further comprises a scheduling module for scheduling tasks via said executable service functions.

5.   (Original) The computer system of Claim 3, wherein said programming interface layer defines a plurality of classes including at least a selected one of AnswersResponse, BinaryResource, BooleanResponse, ClientInfo, CodeResponse, Concepts, ConceptsResponse, ConceptValues, ConfigFile, DeckResponse, Device,

Devices, Identity, ImageResource, InfoRequest, InfoRequestResponse, InfoResponse, Message, MessageResponse, Resource, ResourceReference, ResourcesResponse, Response, Result, User, and UserDataResponse.

6.   (Original) The computer system of Claim 3, wherein said programming interface layer defines a plurality of methods including at least a selected one of AddMessage, Equals, AddData, GetString, GetEnumerator, CreateUser, DeleteUser, DoesUserExist, GetSignupConcepts, GetSupportedData, GetUserData, LogOn, ModifyUserData, SetIdentity, SetPassword, SetPrimaryUserData, AppendResource, AppendResourceReference, DoFeatureCommand, DoSolutionCommand, GetDeck, GetResources, SubmitConcepts, GetInfo, and GetInfoRequest.

7.   (Previously Presented) A programming interface layer for a service provider to facilitate delivery of data services to client devices by any of a plurality of vendors via the service provider, the programming interface layer comprising:
        a plurality of generic executable service functions callable by any of the plurality of vendors to facilitate delivery of a plurality of heterogeneous data services;
        a parameter processing module for processing function-specific parameters, including device information for a wireless mobile device, for one of said plurality of generic executable service functions wherein said function-specific parameters are associated with one of said generic executable service functions; and
        a response generating module for generating a function-specific response from one of said generic executable service functions, wherein said function-specific response is associated with one of said generic executable service functions and includes said device information.

8.   (Original) The programming interface layer of Claim 7, further comprising a scheduling module for scheduling tasks via said executable service functions.

9.   (Original) The programming interface layer of Claim 7, further defining a plurality of classes including at least a selected one of AnswersResponse,

BinaryResource, BooleanResponse, ClientInfo, CodeResponse, Concepts, ConceptsResponse, ConceptValues, ConfigFile, DeckResponse, Device, Devices, Identity, ImageResource, InfoRequest, InfoRequestResponse, InfoResponse, Message, MessageResponse, Resource, ResourceReference, ResourcesResponse, Response, Result, User, and UserDataResponse.

10.   (Original) The programming interface layer of Claim 7, further defining a plurality of methods including at least a selected one of AddMessage, Equals, AddData, GetString, GetEnumerator, CreateUser, DeleteUser, DoesUserExist, GetSignupConcepts, GetSupportedData, GetUserData, LogOn, ModifyUserData, SetIdentity, SetPassword, SetPrimaryUserData, AppendResource, AppendResourceReference, DoFeatureCommand, DoSolutionCommand, GetDeck, GetResources, SubmitConcepts, GetInfo, and GetInfoRequest.

11.   (Previously Presented) A computer readable medium containing computer executable instructions for a programming interface layer for a service provider to facilitate delivery of data services to client devices by any of a plurality of vendors via the service provider, the programming interface layer comprising:

a plurality of generic executable service functions callable by any of the plurality of vendors to facilitate delivery of a plurality of heterogeneous data services;

a parameter processing module for processing function-specific parameters, including device information for a wireless mobile device, for one of said plurality of generic executable service functions wherein said function-specific parameters are associated with one of said generic executable service functions; and

a response generating module for generating a function-specific response from one of said generic executable service functions, wherein said function-specific response is associated with one of said generic executable service functions and includes said device information.

12.	(Original) The computer readable medium of Claim 11, wherein the programming interface layer further comprises a scheduling module for scheduling tasks via said executable service functions.

13.	(Original) The computer readable medium of Claim 11, wherein said programming interface layer defines a plurality of classes including at least a selected one of AnswersResponse, BinaryResource, BooleanResponse, ClientInfo, CodeResponse, Concepts, ConceptsResponse, ConceptValues, ConfigFile, DeckResponse, Device, Devices, Identity, ImageResource, InfoRequest, InfoRequestResponse, InfoResponse, Message, MessageResponse, Resource, ResourceReference, ResourcesResponse, Response, Result, User, and UserDataResponse.

14.	(Original) The computer readable medium of Claim 11, wherein said programming interface layer defines a plurality of methods including at least a selected one of AddMessage, Equals, AddData, GetString, GetEnumerator, CreateUser, DeleteUser, DoesUserExist, GetSignupConcepts, GetSupportedData, GetUserData, LogOn, ModifyUserData, SetIdentity, SetPassword, SetPrimaryUserData, AppendResource, AppendResourceReference, DoFeatureCommand, DoSolutionCommand, GetDeck, GetResources, SubmitConcepts, GetInfo, and GetInfoRequest.

15.	(Previously Presented) In a computing environment, a method comprising:
		receiving a function call from any of a plurality of vendors to facilitate delivery of a plurality of heterogeneous data services, the function call directed to one of a plurality of generic executable service functions of a programming interface layer;
		processing, by a parameter processing module of the programming interface layer, one or more function-specific parameters, including device information for a wireless mobile device, for said function call to one of the plurality of generic executable service functions, wherein said function-specific parameters are associated with one of said generic executable service functions; and

generating, by a response generating module of the programming interface layer, a function-specific response from the called generic executable service function, wherein the function-specific response is associated with the called generic service function and includes said device information.

16. (Previously Presented) The method of claim 15, further comprising directing said function-specific response to a specific wireless mobile device.

17. (Previously Presented) The method of claim 15, further comprising scheduling, by a scheduling module of the programming interface layer, tasks via said generic executable service functions.

18. (Previously Presented) The method of claim 15, wherein the heterogeneous data services include one of making airline reservations, ordering flowers, making hotel reservations, making reservations at a restaurant, locating a place on a map, and booking a rental car.

19. (Previously Presented) The computer system of claim 3, wherein the heterogeneous data services include one of making airline reservations, ordering flowers, making hotel reservations, making reservations at a restaurant, locating a place on a map, and booking a rental car.

20. (Previously Presented) The programming interface layer of claim 7, wherein the heterogeneous data services include one of making airline reservations, ordering flowers, making hotel reservations, making reservations at a restaurant, locating a place on a map, and booking a rental car.

21. (Previously Presented) The computer readable medium of claim 11, wherein the heterogeneous data services include one of making airline reservations, ordering flowers, making hotel reservations, making reservations at a restaurant, locating a place on a map, and booking a rental car.

Appendix B – Copies of Evidence Submitted

No evidence has been submitted under 37 C.F.R. 1.130, 1.131, or 1.132. No evidence entered by Examiner has been relied upon by Appellants in the appeal.
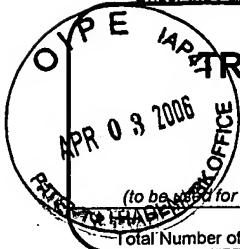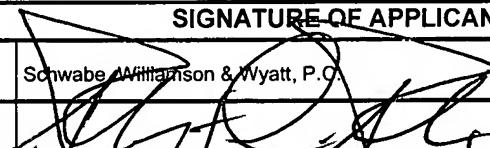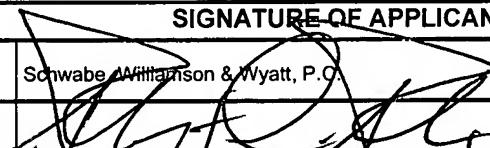
TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/705,456
Filing Date	November 10, 2003
First Named Inventor	Roundtree
Art Unit	2683
Examiner Name	D'Agosta Stephen M.
Total Number of Pages in This Submission	Attorney Docket Number 109927-135179

ENCLOSURES *(Check all that apply)*

- [✓] Fee Transmittal Form
  - [✓] Fee Attached
- [ ] Amendment/Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Reply to Missing Parts/ Incomplete Application
  - [ ] Reply to Missing Parts under 37 CFR 1.52 or 1.53

- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
  - [ ] Landscape Table on CD

- [ ] After Allowance Communication to TC
- [ ] Appeal Communication to Board of Appeals and Interferences
- [✓] Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- [ ] Proprietary Information
- [ ] Status Letter
- [✓] Other Enclosure(s) (please Identify below):
  Return Receipt Postcard

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Schwabe Williamson & Wyatt, P.C.
Signature	
Printed name	Robert C. Peck
Date	March 31, 2006	Reg. No. 56,826

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature	
Typed or printed name	Yvette L. Chriscaden	Date	March 31, 2006

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2006

☐ Applicant claims small entity status. See 37 CFR 1.27

Complete if Known	
Application Number	10/705,456
Filing Date	November 10, 2003
First Named Inventor	Roundtree
Examiner Name	D'Agosta, Stephen M.
Art Unit	2683
Attorney Docket No.	109927-135179

TOTAL AMOUNT OF PAYMENT	($) 500

METHOD OF PAYMENT (check all that apply)

☑ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☑ Deposit Account Deposit Account Number: 500393 Deposit Account Name: Schwabe, Williamson et al

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below   ☐ Charge fee(s) indicated below, **except for the filing fee**

☑ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17   ☑ Credit any overpayments

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FEE CALCULATION (All the fees below are due upon filing or may be subject to a surcharge.)

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES Fee ($)	Small Entity Fee ($)	SEARCH FEES Fee ($)	Small Entity Fee ($)	EXAMINATION FEES Fee ($)	Small Entity Fee ($)	Fees Paid ($)
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee ($)	Fee Paid ($)
_____ - 20 or HP =	_____ x	_____ =	_____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee ($)	Fee Paid ($)
_____ - 3 or HP =	_____ x	_____ =	_____

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims

Fee ($)	Fee Paid ($)
_____	_____

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee ($)	Fee Paid ($)
_____ - 100 =	_____ / 50 =	_____ (round up to a whole number) x	_____ =	_____

4. OTHER FEE(S)

Fees Paid ($)

Non-English Specification, $130 fee (no small entity discount)   _____

Other (e.g. late filing surcharge): _____

SUBMITTED BY			
Signature	*[signature]*	Registration No. (Attorney/Agent) 56,826	Telephone 503-222-9981
Name (Print/Type)	Robert C. Peck		Date March 31, 2006